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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,044	07/29/2003	Robert B. Karnes	64314-00002USPT	9279
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JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			EXAMINER SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,044

Applicant(s)

KARNES ROBERT

Examiner

Rashmi K. Sharma

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 23-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/04 & 3/05.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 3/15/05.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a towline conveyor system, classified in class 198, subclass 841.
- II. Claims 23-36, drawn to a self-lubricating non-metallic composition, classified in class 508, subclass 110.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the invention of Group II is a self-lubricating material composition that is not related to the invention of Group I.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Harold Wells on 3/15/05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-36 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 15, 16, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the top" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the side bearing section" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 16 and 17 recite the limitation "the side bearing inserts" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3651

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 9, 10, 12, 14 and 18-21 have been rejected under 35 U.S.C. 102(a) as being anticipated by Ledingham (U.S. Patent number 6,533,108).

Ledingham discloses a replaceable wearing surface for a towline conveyor comprising a generally fixed track (see Figure 1), a plurality of stationary wearing surfaces/sections (22) in the track comprising a polymer based composite (please read column 3 lines 57-64), a chain (C) positioned to run in the track along the wearing surface (22), the wearing surfaces (22) is formed from a plurality of uniform wearing sections (22, 23, 24) separably mountable in the track, wherein a first section (22, 23) is in contact with the chain (C) and a second section (24) supports the first section (22, 23), wherein the first section (22, 23) has greater wear resistance than the second section (24), the plurality of wearing sections are generally flat surfaces contacting the chain (C),

Ledingham also discloses a steel mounting structure (14) whereby a plurality of polymer-based bottom wearing sections (top surface of 22) are replaceably mounted in the mounting structure (14), to thereby removeably connect the replaceable wearing surface (22, 23) to the mounting structure, a plurality of polymer-based side bearing sections (side surface of 23) replaceably mounted to the mounting structure (14), wherein the side bearing sections are mounted on opposite sides of the chain in one or more straight sections of the conveyor and a carrier block (30, 32) comprising channels

for mating with the replaceably wearing surface (22, 23) comprises channels for mating with the carrier block (see Figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ledingham (U.S. Patent number 6,533,108) in view of Galloway et al. (U.S. Patent number 3,662,690).

Ledingham as disclosed above, fails to show the generally flat surfaces defining bottom and side wear surface inserts contacting the chain when the chain is traveling around a corner, the mounting structure mounted in a floor, wherein the top of the side wearing sections are level with the floor.

Galloway et al. does disclose a curved conveyor path (see Figures 6 and 7) having bottom and side wear surface inserts (48 and 77 respectively).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ledingham's invention to position the conveyor within the floor structure as taught by Galloway in order to provide for a stationary conveyor system, as well as to allow for the conveyance of large, heavy articles that need the foundation of a floor in order to be conveyed efficiently.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ledingham's side wearing sections to be level with the floor, as taught by Galloway, in order to provide for a user's desired level of conveyance, depending on the size, shape and weight of the articles being conveyed. Varying the level of conveyance of the articles is a very well known and common concept in the art and one having ordinary skill in the art would be reasonably apprised to do so, depending on the user's needs.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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